

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DAVID DANIELS.

CASE NO. 19-6079 RJB-DWC

Plaintiff,

ORDER ADOPTING REPORT AND RECOMMENDATION

MICHAEL WAYMAN, and THOMAS
L'HEUREUX,

Defendants.

This matter comes before the Court on the Report and Recommendation of U.S.

Magistrate Judge David W. Christel. Dkt. 18. The Court has considered the Report and

Recommendation (Dkt. 18), the Plaintiff's objections (Dkt. 19), and the remaining file.

In this case, the Plaintiff raises constitutional challenges, pursuant to 42 U.S.C. § 1983, to

a hearing which resulted in the Plaintiff's loss of good time credits and his placement in

administrative segregation. Dkt. 1. The Report and Recommendation recommends that this civil

rights case be dismissed with prejudice and without leave to amend because amendment would

be futile. Dkt. 18. The facts and procedural history are in the Report and Recommendation

(Dkt. 18, at 1-2) and are adopted here. The Report and Recommendation recommends the Court

1 find Plaintiff's challenges related to the revocation of his good time credits barred pursuant to
2 *Heck v. Humphrey*, 512 U.S. 477 (1994). Dkt. 18. It recommends finding that the Plaintiff's
3 challenges related to his placement in administrative segregation fail to state a claim because
4 prisoners have no due process liberty interest in their classification and he was afforded due
5 process. *Id.* The Report and Recommendation recommends that the Plaintiff's first amendment
6 freedom of religion claim be dismissed because as a matter of law, preventing prisoners in
7 administrative segregation from attending group religious services, is not a violation of the first
8 amendment. *Id.* It recommends finding that none of the harms asserted by the Plaintiff rise to
9 the level of an eighth amendment violation pursuant to binding case law. *Id.* The Report and
10 Recommendation recommends dismissal without leave to amend because amendment would be
11 futile. *Id.*

12 The Plaintiff objects to the Report and Recommendation. Dkt. 19. None of his
13 objections are grounds to not adopt the Report and Recommendation. He generally asserts that
14 his complaint can be cured by amendment and continues to challenge the events surrounding his
15 hearing, revocation of good time credits, and placement in administrative segregation. Dkt. 19.
16 Without citation to authority, he maintains that 42 U.S.C. § 1983 is the proper statutory
17 mechanism to raise these challenges, failing to acknowledge the *Heck* bar. He fails to point to
18 binding authority which backs his assertions regarding his due process, freedom of religion or
19 eighth amendment claims. The Plaintiff's objections fail to show that his claims should not be
20 dismissed or that the dismissal should be without leave to amend.

21 Accordingly, the Report and Recommendation (Dkt. 18) should be adopted and the
22 complaint dismissed. The dismissal should be without leave to amend because amendment
23 would be futile. This case should be closed.

1 It is **ORDERED** that:

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- The Report and Recommendation (Dkt. 18) **IS ADOPTED**;
- The complaint **IS DISMISSED WITHOUT LEAVE TO AMEND**; and
- This case **IS CLOSED**.

5 The Clerk is directed to send uncertified copies of this Order to Judge Christel, all
6 counsel of record and to any party appearing *pro se* at said party's last known address.

7 Dated this 3rd day of April, 2020.

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10 ROBERT J. BRYAN
United States District Judge